

BLAINE LUETKEMEYER

MEMBER OF CONGRESS

3RD DISTRICT MISSOURI

<http://luetkemeyer.house.gov/>
www.facebook.com/BlaineLuetkemeyer
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Congress of the United States
House of Representatives

Washington, DC 20515

March 23, 2016

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COMMITTEE ON
SMALL BUSINESS

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave N.W.
Washington, DC 20460

RE: USEPA Designations for the 2010 SO2 National Ambient Air Quality Standards (2010 SO2 NAAQS) -- EPA-HQ-OAR-2014-0464

Dear Administrator McCarthy:

On July 22, 2015, one of the undersigned (Rep. Blaine Luetkemeyer) wrote to the Honorable Sara Parker Pauley, Director of the Missouri Department of Natural Resources (MDNR), regarding her Department's ongoing work to address the 2010 SO2 NAAQS revision promulgated by the United States Environmental Protection Agency (USEPA). In that letter, Rep. Luetkemeyer requested that the Department recommend to USEPA that the Franklin County, Missouri Area, the area around Ameren Missouri's Labadie Energy Center, be classified as "unclassifiable" to allow the State to develop a clearer characterization of the air quality based on monitoring currently being conducted by Ameren Missouri with MDNR oversight.

To date, the monitoring data collected and quality assured demonstrates that air quality around the Labadie Energy Center is well below the 2010 1 Hour SO2 NAAQS. Consistent with consideration of the available information, and in conformance with Missouri law and USEPA guidance, MDNR recommended that the Franklin County, Missouri Area be classified as "unclassifiable" in order to provide the Department with time to make a correct designation based on full consideration of actual data. Surprisingly, however, the USEPA rejected MDNR's sound recommendation and instead proposed that the Franklin County, Missouri Area be designated as non-attainment.

As highlighted in the letter to Director Pauley, Franklin County has an unacceptably high unemployment rate of 5.8% (Missouri Department of Economic Development June 2015). A designation of non-attainment only exacerbates the challenges we face in our efforts to attract economic development projects to the area and region. And, to be sure, a designation of non-attainment is simply not supported by what we know today, for several reasons.

First, as mentioned, current monitored and quality assured data supports a trend of attainment for this area. The actual data, collected for close to 1 year, is well below the 2010 1 Hour NAAQS. See attached chart provided to the undersigned summarizing the actual data collected, to date. It appears this data was not considered at all by USEPA when it made its proposed decision of non-attainment. Second, in rendering its proposed decision, USEPA claims to rely on modeling results using a model called AERMOD. However, the model used is technically flawed. Specifically, the model has over prediction tendencies thereby producing results that exaggerate air quality impacts. In fact, USEPA has itself

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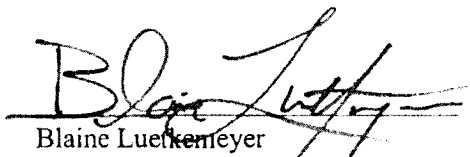
2117 MISSOURI BOULEVARD
JEFFERSON CITY, MO 65109
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recognized that corrections to the model are appropriate and is seeking to correct the model's flaws in a rulemaking it has proposed. That rulemaking is pending but USEPA seems to believe it is still appropriate to ignore the flaws in the modeling even when making impactful decisions such as NAAQS non-attainment designations. Third, USEPA can and has made site specific corrections to the model to address the problems noted but has apparently chosen not to do so here. We understand that MDNR has made a request for site specific approval to correct the over prediction tendencies of the model for the Franklin County, Missouri Area, but USEPA has not yet acted on that site specific request.


We fully appreciate USEPA's work to put in place the protections needed to ensure our country has a healthful environment, but USEPA's work with respect to its proposal to designate the Franklin County, Missouri Area as non-attainment must be re-evaluated. We request your Agency to consider fully all of the available technical data, including actual monitored and quality assured data, around the Franklin County Missouri, Area and make a correct decision to classify the area as "unclassifiable".

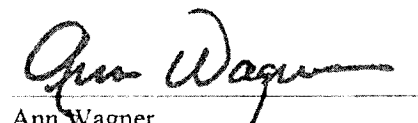
We appreciate your prompt attention to this matter and look forward to your response.

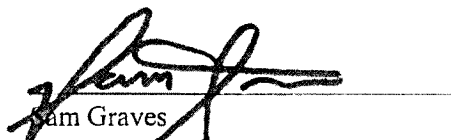
Sincerely,

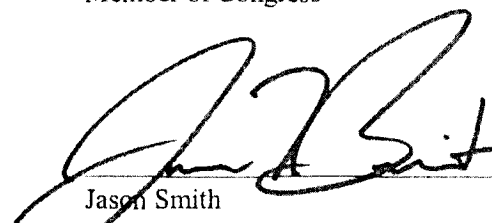

Blaine Luetkenmeyer
Member of Congress



Roy Blunt
United States Senator


Vicky Hartzler
Member of Congress


Ann Wagner
Member of Congress


Sam Graves
Member of Congress


Jason Smith
Member of Congress


Billy Long
Member of Congress

Ambient SO2 Concentration Data from Labadie Area Monitoring Sites

Valley Monitor

Highest measured values since April 2015

Date	Hour	Measured Concentration (ppb)	USEPA Standard (ppb)	Percent Below Standard
10/10/2015	1300	56	75	-25.3%
08/27/2015	1200	51	75	-32.0%
11/09/2015	1400	34	75	-54.7%
11/09/2015	1500	32	75	-57.3%
10/22/2015	1100	30	75	-60.0%
10/10/2015	1400	23	75	-69.3%
05/27/2015	1000	21	75	-72.0%
07/09/2015	1300	19	75	-74.7%
10/21/2015	1100	19	75	-74.7%
11/11/2015	2300	19	75	-74.7%
08/13/2015	1500	19	75	-74.7%
12/22/2015	800	18	75	-76.0%
08/27/2015	1300	18	75	-76.0%
10/08/2015	1200	17	75	-77.3%

Northwest Monitor

Highest measured values since April 2015

Date	Hour	Measured Concentration (ppb)	USEPA Standard (ppb)	Percent Below Standard
05/01/2015	1600	38	75	-49.3%
11/08/2015	1200	35	75	-53.3%
05/01/2015	1500	29	75	-61.3%
11/09/2015	1400	28	75	-62.7%
12/22/2015	800	26	75	-65.3%
11/09/2015	1300	20	75	-73.3%
05/01/2015	1700	19	75	-74.7%
11/08/2015	1300	18	75	-76.0%
08/15/2015	1300	15	75	-80.0%
10/10/2015	1300	15	75	-80.0%
10/10/2015	1200	14	75	-81.3%
12/15/2015	900	14	75	-81.3%
05/01/2015	1200	14	75	-81.3%
05/01/2015	1800	14	75	-81.3%



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

April 22, 2016

OFFICE OF
AIR AND RADIATION

The Honorable Vicky Jo Hartzler
U.S. House of Representatives
Washington, D.C. 20515

Dear Congresswoman Hartzler:

Thank you for your letter of March 23, 2016, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding the EPA's proposed decision to designate the Franklin County Missouri Area as "nonattainment" for the 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The Administrator asked that I respond on her behalf.

Your letter requests that the EPA consider fully all of the available technical data for the Franklin County Missouri Area, and that we designate the area "unclassifiable." Your letter will be included as a public submission in the federal rulemaking docket (Docket ID No. EPA-HQ-OAR-2014-0464), and we will consider your comments in making our final designation decision for the Franklin County Missouri Area. Under the direction of a court order, the EPA must finalize the designation for this area for the 1-hour SO₂ NAAQS no later than July 2, 2016.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Matthew Davis in the EPA's Office of Congressional and Intergovernmental Relations at davis.matthew@epa.gov or at (202) 564-1267.

Sincerely,

A handwritten signature in blue ink, which appears to read "Janet G. McCabe", is positioned above the typed name.

Janet G. McCabe
Acting Assistant Administrator

DAVID B. MCKINLEY, P.E.

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Congress of the United States House of Representatives

March 22, 2016

Ms. Laura Vaught
Associate Administrator
Congressional & International Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Room 3426 ARN
Washington, DC 20460-0001

Dear Ms. Vaught:

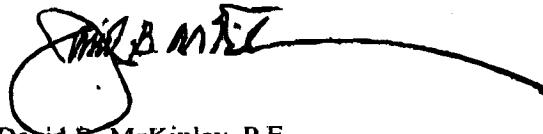
(b) (6) contacted me with concerns relating to a pond, which was constructed on his farm land in (b) (6). For your reference, I have enclosed a copy of (b) (6) signed request for assistance, along with his written statement, which I trust you will find self-explanatory.

In 2010, my constituent was approached by Grenadier Energy to build a pond on his property, which would act as a water source for the drilling company. In 2011, water was removed in order to perform a pressure test. In addition, largemouth bass and bluegill were introduced to the pond. The pond was rented by Grenadier Energy from 2011 through 2012. During the summer of 2012, Grenadier Energy received notice from the West Virginia Department of Environmental Protection (DEP) that they could no longer use the pond as a water source. As per the original rental agreement, sole use and ownership was returned to (b) (6). In 2012, the EPA notified (b) (6) of a pending inspection, which he believes was scheduled for January 8, 2013. Following the inspection, EPA then notified (b) (6) the pond would need to be deconstructed and returned to farmland.

(b) (6) has not been successful in convincing EPA that deconstruction is unnecessary. Since the original construction, the pond has been stocked with game fish, which have now multiplied many times over the years. Reimbursement for their value would be quite expensive. The pond is on private property and no different than any other farm pond. He can find no viable reason for deconstruction and to date, EPA has given him no credible explanation for ordering the removal. He would like his private property left to his own resources.

Your prompt review and comment on my constituent's concerns is requested.

Sincerely,



David B. McKinley, P.E.
Member of Congress

DBM/lw/Enclosures



PRIVACY ACT RELEASE FORM

As required by the Privacy Act of 1974, I authorize United States Representative David B. McKinley to obtain information from EPA Philadelphia regarding my claim or problem.
(Agency or Office)

Signature (b) (6) Date (b) (6)
Name (b) (6) Home Telephone (b) (6)
Mobile/ Work Telephone (b) (6)
Date of Birth (b) (6) Social Security Number (b) (6)
Email address (b) (6)
Address (b) (6) City (b) (6)
(b) (6) (b) (6) m Number (if applicable) (b) (6)

Please describe your problem and the current status of your claim.

See Attached

*Please feel free to write on back if necessary

Please return form to:

Congressman David B. McKinley, P.E.
709 Beechurst Avenue
Suite 29
Morgantown, WV 26505
Phone (304) 284-8506 Fax (304) 284-8505

Feb 29 - 2016

Congressman MC Kinley,

I was approached by Grenadian Energy in 2010, to build a farm pond on my property for a water supply. I agreed to their proposal. No discussion on permit and such. Supposedly they knew their business.

The pond construction was completed Nov, 2010. The project was engineered and supervised by John Carr, a retired soil conservation engineer.

On completion, Grenadian Energy rented site for 1 year. Summer of 2011, they removed water for filling a ~~new~~ new pipeline for pressure testing. Also in 2011, largemouth bass and bluegill were introduced to the pond and reproduced vigorously.

At the end of 2011, the site was re-rented for another year 2012. In June of 2012, I was notified from Grenadian that the DEP had decided they couldn't use these ponds. At this time, the site was turned over to me. As per our initial agreement.

Then in Dec. 2012, the EPA wanted to inspect the pond. On Jan 8, 2013 they supposedly did. They then declared it was to be de-constructed.

Then there was extensive communication between myself and Stephanie Androsow (EPA SCIENTIST) and Pam Lajos (EPA LAWYER) but all fell on deaf ears.

Have tried several avenues to stop the senseless slaughter of thousands of game fish. The DNR, FARM BUREAU, ISSUE OF PRIVATE PROPERTY have done no good.

The pond is no different than any other pond in [REDACTED], Ohio, or PA.

STATOIL is now responsible for the removal at a great expense. Surely this money could be put to a better use.

Would appreciate any help in this matter, if not for me, maybe for the next victim of the EPA.

Property is located in [REDACTED] (b) (6)

[REDACTED] (b) (6)

Thank you,

[REDACTED] (b) (6)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 25 2016

The Honorable David B. McKinley
Member, U.S. House of Representatives
405 Capitol Street
Charleston, West Virginia 25301

Dear Representative McKinley:

Thank you for your March 22, 2016 letter to the U.S. Environmental Protection Agency (EPA) on behalf of your constituent (b) (6) concerning an impoundment constructed by Grenadier Energy Partners, LLC and DAC Energy, LLC (Grenadier) on (b) (6) property in an unnamed tributary of (b) (6). Grenadier was recently acquired by Statoil USA Onshore Properties, Inc. Your letter requests EPA's assistance with obtaining what is known as an "after-the-fact" Section 404 Clean Water Act (CWA) permit from the U.S. Army Corps of Engineers (Corps), which would allow (b) (6) to retain the impoundment for his use.

The impoundment/pond at issue was created by Grenadier as a source of fresh water for use in their hydraulic fracturing operations. Grenadier created the impoundment by discharging fill material into and inundating approximately 356 linear feet of unnamed tributary of (b) (6) a water of the United States. The construction of the impoundment, created for commercial purposes, is a regulated activity that required a permit from the Corps under Section 404 of the CWA. Grenadier failed to obtain a permit which has resulted in an ongoing violation of the CWA.

To resolve the unauthorized activity, EPA issued an Administrative Order for Compliance (b) (6) on December 5, 2013 and entered into a Consent Agreement and Final Order (b) (6) with Grenadier on May 11, 2015. Under the Order, Grenadier is required to remove the pond and restore the site to pre-disturbance grade and conditions to resolve the violation. However, (b) (6) does have the option to construct a pond in upland locations on his property.

If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Mark Ferrell, EPA's West Virginia Liaison, at 304-542-0231.

Sincerely,

Shawn M. Garvin
Regional Administrator

